

# Fort Smith Sedition Trial of 1988

For seven weeks beginning on February 16, 1988, **Fort Smith (Sebastian County)** was the site of a major trial in which a twelve-person jury sought to determine the guilt or innocence of fourteen right-wing radicals who were charged with a variety of crimes, most prominently conspiracy to engage in sedition. After hearing from a total of almost 200 witnesses, the jury found none of the defendants guilty.

In the almost two-month-long proceeding, federal prosecutors presented evidence intended to prove that ten of the defendants had conspired and plotted to overthrow the federal government while also asserting that the others were guilty of trying to kill a federal judge and a Federal Bureau of Investigation (FBI) agent. According to the scenario laid out by assistant U.S. attorney Steven N. Snyder, in a July 1983 meeting in Hayden Lake, Idaho, the leaders of a number of **racist and neo-Nazi groups** began the planning and implementation of a program that would ultimately include robberies, bombings, and murders as part of a conspiracy to create a white Aryan nation in the United States.

While like minded, the defendants in the case were geographically diverse: Robert E. Miles, a former grand dragon of the Michigan **Ku Klux Klan**; Louis Ray Beam of Houston, the former grand dragon of the Texas Klan; Richard G. Butler, the one-time leader of the Aryan Nations in Idaho; Richard Scutari of New York; Bruce Carroll Pierce of Washington State; Andrew Virgil Barnhill of Florida; Ardie McBrearty of Arkansas; David Eden Lane of Denver, Colorado; Lambert Miller of Missouri; David Michael McGuire of Illinois; Robert Smalley of Fort Smith; **Richard Wayne Snell** of Oklahoma; and William Wade and his son Ivan Ray Wade both of **Smithville (Lawrence County)**. Many had had previous legal trouble—in fact, at the time of the trial, Scutari, Pierce, Barnhill, McBrearty, and Lane were all in **prison** serving lengthy terms for racketeering, with Pierce and Lane also serving additional time for their involvement in the death of popular Denver radio personality Alan Berg. Snell was also in prison, having been convicted of two murders, one of which had resulted in a **death sentence** (and which Snell was appealing).

In their effort to secure convictions on the charges of conspiracy, the prosecution had to prove that ten of the defendants had met and planned to overthrow the government. In buttressing the case for the conspiracy whose events, the indictment asserted, took place between July 1983 and April 1985, federal prosecutors also charged the ten defendants with a total of 119 specific and overt acts, including robbery, counterfeiting, and the attempted murder of federal officials, offenses for which the accused could have faced maximum sentences of twenty years in prison and fines of \$20,000.

Meanwhile, five of the fourteen were charged with conspiring to murder Judge H. Franklin Waters, the chief federal judge for the Western District of Arkansas, as well as FBI agent Jack D. Knox.

Given that the accused were all reported to be members of white supremacist groups, with some having held positions of leadership in their individual organizations, the government hoped that the successful prosecution of this group would go far in breaking up the wide-ranging neo-Nazi network investigators had uncovered. While many speculated that the roots of this apparent insurgency could be found in the June 1983 shooting death of outspoken tax protestor **Gordon Kahl** in Arkansas, subsequent investigation seemed to indicate that it had become more far-flung than the Posse Comitatus group in which Kahl was a central figure. Indeed, while some of the incidents that were a part of the government's case were already known, and in fact had resulted in some earlier convictions, ties to a wide range of Klan and white nationalist groups were discovered, and plans to bomb federal buildings, assassinate federal officials, commit robberies, and engineer jailbreaks of imprisoned compatriots were all at one time or another planned as part of the alleged effort to overthrow the government. Too, the government prosecutors said that white supremacist groups robbed banks and armored cars of \$4.1 million, noting that, as of the trial, \$1 million had still not been recovered.

The presiding judge in the trial was District Court Judge **Morris Arnold**, who oversaw the seating of an all-white jury of ten men and two women. Once the trial began, the prosecution offered 113 witnesses, while the defense countered with 79. In a break from standard legal practice, some of the defendants delivered their own opening statements, while others left it to their attorneys to offer their first defense. While the prosecution systematically laid out a scenario detailing the meetings and actions that constituted the alleged conspiracy, Richard G. Butler's attorney sought to refute the charges, asserting that the issue was not one of conspiracy but of freedom of speech and that the group's effort to replace one government with another was little more than democratically based free speech.

About a month into the trial, Judge Arnold ruled that there was insufficient evidence to continue the prosecution of Robert Smalley, who had been charged with seditious conspiracy. However, that interruption was followed by a continuing presentation of evidence and testimony until early April, when the jury began its deliberations. After four days, the jury members told Judge Arnold that they were deadlocked, but he refused to accept that and sent them back for further deliberations.

The following day, April 7, 1988, the jury returned a verdict of not guilty against the thirteen individuals charged with conspiring to overthrow the U.S. government. Miles, Butler, Beam, Scutari, Pierce, Barnhill, McBrearty, Lane, and Snell had all been acquitted of the charges of seditious conspiracy, while Scutari and Barnhill were acquitted of transporting stolen money, and Snell, Miller, McGuire and the Wades—father and son—were acquitted of conspiracy to commit murder.

The trial results led to many post-verdict interpretations, analyses, and responses. One defendant proclaimed that the jury's verdict meant that "religious freedom is still alive" in the United States, while some observers opined that federal prosecutors had been duped by star witness Glenn Miller, whose ultimately unconvincing testimony had been the product of a highly favorable plea deal. Meanwhile, the other major prosecution witness, former Arkansas white supremacist leader John Ellison, who was already serving time in prison for racketeering, offered less-than-compelling testimony. Meanwhile, many saw the verdict as a reflection of disturbing changes in the cultural landscape. **Urban League** president John Jacobs commented that the verdict was the latest example of the resurgence of racism in the United States, while Burton Levinson, national chairman of the Anti-Defamation League, called the verdicts a "real setback in the war against organized hate."

Indeed, the verdicts proved a major setback to efforts to address the increasingly aggressive efforts of the white nationalist movement, one whose profile and outreach would only continue to grow.

#### **For additional information:**

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"Judge Directs Acquittal of One Supremacist Defendant." United Press International (UPI), March 18, 1988. Online at <https://www.upi.com/Archives/1988/03/18/Judge-directs-acquittal-of-one-supremacist-defendant/3502574664400/> (accessed April 18, 2019).

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